IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

MCDOWELL COUNTY, Plaintiff, v. MCKESSON CORPORATION, AMERISOURCEBERGEN DRUG CORPORATION, CARDINAL HEALTH INC., and HAROLD ANTHONY COFER, Jr., M.D., Defendants.	Civil Action No. 1:17-cv-00946 Judge: David A. Faber

DEFENDANT AMERISOURCEBERGEN DRUG CORPORATION'S RESPONSE TO *PLAINTIFF'S MOTION TO STAY RESPONSE DEADLINE TO MOTIONS TO DISMISS AND OTHER PENDING CASE MANAGEMENT DEADLINES* ("PLAINTIFF'S MOTION")

Defendant AmerisourceBergen Drug Corporation ("ABDC") objects to Plaintiff's Motion for the reasons stated below, but does not object to an extension of the deadline for Plaintiff to file its Response to ABDC's Motion to Dismiss to the same date upon which any contemplated Motion to Remand must be filed, which is 24 February 2017.

Plaintiff received ABDC's Motion to Dismiss on 1 February 2017. That it waited until the day before its Response was due to file its Motion shows a disregard for the Rules and, frankly, is unfair both to this Court and to ABDC and the other Defendants. Nevertheless, we must proceed.[1]

ABDC can discern no reason why the deadlines established by the Federal Rules of Civil Procedure and this Court in its initial Scheduling Order should be stayed or delayed. The events

[1] Responding to Plaintiff's footnote number one, ABDC shall assume that at some point in the future Plaintiff will, "if necessary," amend its Complaint or take other acceptable action to "properly name the appropriate Plaintiff." ABDC respectfully submits that this little technical detail is indeed a necessary part of pleading and must be done. McDowell County may not sue or be sued in its own name and is not properly the "Plaintiff" in this case.

and activities scheduled and required will advance this case on its merits, which ABDC respectfully submits is not "inefficient" or a poor use of the "Parties' limited resources" as Plaintiff's Motion suggests.

Plaintiff has chosen to file a Complaint against ABDC that is filled with generalities, outright falsehoods, misstatements, and factually unsupported accusations that are purposely couched in the most hyperbolic, volatile, and inflammatory language possible. And its private contingency fee counsel have further chosen to seek maximum media coverage around that Complaint, accompanied by outrageous and, again, obviously uniformed, false, inaccurate, and purposely inflammatory comments of its attorneys through press releases and public statements. ABDC does not wish to "try" this matter in the media; ABDC wishes to proceed as expeditiously as is appropriate to bring this meritless matter to a conclusion.

As to the sequencing of this Court's consideration of and decision on the merits of motions that may be appropriately brought before it, ABDC respectfully submits that the order in which this Court addresses and decides those motions will be up to its judgment and discretion. Activities and actions by the Court and the Parties that advance the status of this case toward a resolution on its merits (of which there are none), rather than trial by media attention, certainly serves the interest of judicial economy, as well as fairness and justice.

Accordingly, ABDC objects to Plaintiff's Motion insofar as it asks for an indefinite stay pending resolution of its promised Motion to Remand, but does not object to the Court granting an extension of the time within which Plaintiff must respond to ABDC's Motion to Dismiss to and including the date upon which a Motion to Remand must be filed, which is 24 February 2017.

Dated: February 15, 2017

Respectfully submitted,

AMERISOURCEBERGEN DRUG CORPORATION

/s/ Alvin L. Emch, Esquire

Alvin L. Emch, Esquire (WVSB # 1125)
aemch@jacksonkelly.com
Adam J. Schwendeman (WVSB # 11989)
aschwendeman@jacksonkelly.com
JACKSON KELLY PLLC
500 Lee Street, East, Suite 1600
P.O. Box 553
Charleston, WV 25322
(304) 340-1000

Counsel for Defendant

Meredith S. Auten (*pro hac vice to be filed*)
meredith.auten @morganlewis.com
Eric W. Sitarchuk (*pro hac vice to be filed)*
eric.sitarchuk@morganlewis.com
MORGAN LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
(215) 963-5000

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MCDOWELL COUNTY,
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Defendants.

Civil Action No. 1:17-cv-00946
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CERTIFICATE OF SERVICE

I, A. L. Emch, counsel for Defendant AmerisourceBergen Drug Corporation, do hereby certify that on 15 February 2017 I electronically filed the foregoing Response with the Clerk of the Court using CM/ECF system, which will send notification of such filing to the following:

Mark E. Troy
Troy Law Firm, PLLC
222 Capitol Street
Charleston, WV 25301

Brian A. Glasser
Raymond S. Franks, II
Bailey Glasser LLP
209 Capitol Street
Charleston, WV 25301

F. Lane Heard, III
Williams & Connolly LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005

Harry F. Bell, Jr.
The Bell Law Firm PLLC
P.O. Box 1723
Charleston, WV 25326-1723

Russell D. Jessee
Devon J. Stewart
Steptoe & Johnson PLLC
P.O. Box 1588
Charleston, West Virginia 25326-1588

James R. Wooley
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114-1190

I further certify that on 15 February 2017 I served a true and correct copy of the Response by first-class mail on the following:

John Yanchunis
(admitted *pro hac vice* State Court)
Morgan & Morgan
Complex Litigation Group
201 N. Franklin St., 7th Floor
Tampa, FL 33602

James Young
(*pro hac vice pending* State Court)
Morgan & Morgan
Complex Litigation Group
76 S. Laura Street, Suite 1100
Jacksonville, FL 32202

Elizabeth P. Kessler
Jones Day
325 John H. McConnell Blvd.
Columbus, OH 43215

Enu Mainigi
Steven M. Pyser
Williams & Connolly LLP
725 Twelfth Street NW
Washington, DC 20005

Geoffrey Hobart
Matthew Benov
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001

John D. Wooton Sr.
Wooton, Davis, Hussell & Ellis, PLLC
201 N. Kanawha Street
Beckley, WV 25801

/s/ Alvin L. Emch
Alvin L. Emch (WVSB # 1125)